

REMARKS

Claims 1-9, 13-19, 21 and 22 are pending in the subject application. After entry of the above amendments to the claims, claims 1, 17 and 19 have been amended. The Examiner is respectfully requested to reconsider the rejection of the claims in view of the above amendments and remarks as set forth herein below.

I. *The specification stands objected to in paragraph no. 2 of the outstanding Office Action.*

The specification has been amended above to capitalize all trademarks.

II. *Claim 19 stands objected in paragraph no. 3 of the outstanding Office Action.*

Claim 19 has been amended in response thereto.

III. *The drawings/specification stand objected to in paragraph no. 4 of the outstanding Office Action.*

The specification has been amended in response thereto.

IV. *Claims 17 and 19 stand rejected under 35 U.S.C. § 112, second paragraph.*

Claims 17 and 19 have been amended in response thereto.

V. *Claims 1-9, 13-17, 19-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Larkin (U.S. 2,697,007) in view of Lawson (U.S. D420,206) and Crews (U.S. D502,588). This rejection is respectfully traversed.*

Larkin, *et al.* discloses a sleeping halo or cap 20 including a cap 21, a halo proper 22 and a chin securement 23. The halo 22 comprises a hollow donut-like covering 35 for a cushion-like preferably resilient annulus 36. As shown in Figure 1, the head of the user fits all the way through the halo 22 or annulus 36 with the top portion of the user's head protruding there above.

Lawson discloses a tire hat having a round annulus tire portion and a wheel portion.

Crews discloses a tire hat visually simulating an upper half of a tire.

The Examiner states that it "would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the teachings of Lawson and Crews with the hat structure of Larkin to create a novelty hat that visually simulates a vehicle tire."

Larkin, *et al.* requires the sleeping halo or cap disclosed or shown to be configured so that the halo 22 is located approximate to the mid section of the user's head, as shown in Figure 1. With this required configuration, an upper portion of the user's head protrudes substantially

through the halo portion 22 and extends there above. Specifically, the cap 21 and chin securingment 23 are configured to locate and secure the halo portion 22 at the mid section of the user's head. Thus, to modify the sleeping halo and cap of Larkin, *et al.* with the teachings of Lawson and Crews would result in a sleeping halo or cap having a tire portion around the mid section of the user's head unlike the claimed combination including an upper surface of the hat portion located above a top of the user's head.

Further, such a modification of the sleeping halo and cap of Larkin, *et al.* is not suggested, since the hat structures of Lawson and Crews are such that the upper portion of the user's head does not protrude through and above the upper surface of these particular hats. Thus, the sleeping halo or cap of Larkin, *et al.* cannot be modified factually as suggested by the Examiner. Further, it is noted in attempting to modify the tire hat of Lawson with the teaching of Larkin, *et al.* is also not suggested, since the cap 21 of the sleeping halo of Larkin, *et al.* would cover the wheel portion of the tire hat of Lawson destroying the intended design. Even further, attempting to modify the tire hat of Crews in view of Larkin, *et al.* is not suggested, since the hat of Crews is not an annulus as required by the sleeping halo and cap of Larkin, *et al.*

As further notes, the tire hats of Lawson and Crews are not provided with a fabric layer, in particular a fabric layer printed to visually simulate a vehicle tire. More specifically, the tire hat of Lawson shows an annulus tire portion void of any detail to visually simulate a tire except for its overall shape, and a wheel portion having some visual detail to visually simulate a wheel. The drawings do not reveal the manner in which the wheel portion is visually simulated. Crews shows a novelty hat visually simulating a portion of a vehicle tire. As shown in Figure 2, the

trademark or trade name "TREADHEAD" is visually simulated by being sculpted out of the material itself (e.g. indicia protrudes above the surface of the sidewall possibly formed by a molding technique), and is not printed as suggested by the Examiner. Further, the tread portion visually simulates grooves by slight surface texturing or etching of the surface, and not printed as suggested by the Examiner. For example, slight texturing or etching of the outer surface to visually simulate a tread pattern in Figure 2 is again used to provide a circular line of demarcation between the tire portion and wheel portion in Figure 3 and again to provide an oval-shaped line of demarcation and curvature in the head recess as shown in Figure 4. Clearly, the lines and shading shown in the drawings must indicate actual ornamental features of the design, not printed matter in the design drawings. There exists no basis whatsoever to assert that the surface of the tire of Crews is printed on to visually simulate a vehicle tire, but instead there exists evidence based on the drawings that the surface is slightly textured or etched to visually simulate a vehicle tire. The claimed combination requires that the fabric layer is printed to visually simulate a vehicle tire, not textured or etched to visually simulate a vehicle tire. Crews as well as Larkin, *et al.* and Lawson do not teach printing on the surface to visually simulate a vehicle tire, let alone printing on a fabric covering to visually simulate a vehicle tire. In conclusion, Larkin, *et al.* in view of Lawson and Crews alone or in combination do not teach or suggest the claimed invention.

In view of the above amendment and remarks, it is believed that the claims are in condition for allowance and allowance is respectfully requested.

It is not believed that extensions of time are required beyond those that my otherwise be provided for in accompanying documents. However, in the event that additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are necessary and hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefore are hereby authorized to be charged to our Deposit Account No. 11-1243.

The Commissioner is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 11-1243.

Respectfully submitted,

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